

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

NOAH HANCOCK SIMMONS, II,

Plaintiff,

v.

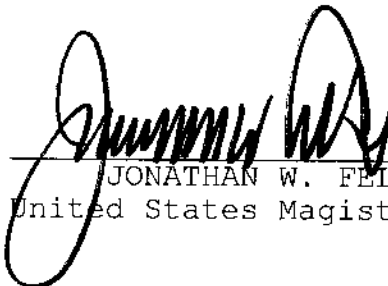
**DECISION AND ORDER
04-CV-6610**

GIAMBRUNO, et al.,

Defendants.

Currently pending before the Court is plaintiff's motion for appointment of counsel (Docket #63). The application for appointment of counsel (Docket #63) is **denied**, for the same reasons discussed in the Court's prior Decisions and Orders (Docket #38, 44, 52 and 60). As noted in previous decisions, all discovery deadlines have expired and a trial date will be established by Judge Siragusa. Should Judge Siragusa determine that the appointment of trial counsel is warranted, he may, of course, revisit the appointment of counsel issue at that time.

SO ORDERED.



JONATHAN W. FELDMAN
United States Magistrate Judge

Dated: September **25**, 2008
Rochester, New York